

CSO/ADM CR 1/3221/87(99)  
LS/B/104/98-99  
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**By Fax No. 2877 0802**

27 October 1999

Secretary for Administration's Office  
(Attn: Mr. Ryan Chiu  
Assistant Secretary (Administration))  
12/F, West Wing  
Central Government Offices  
11 Ice House Street Central  
Hong Kong

Dear Mr. Chiu,

### **Arbitration (Amendment) Bill 1999**

I refer to the above Bill and would like to seek your clarifications on the following points:

#### Clause 3(c)

On the definition of "the Mainland", it means any part of China other than Hong Kong, Macau and Taiwan. China will resume the exercise of sovereignty over Macau on 20 December 1999. How is arbitral award between Hong Kong and Macau going to be mutually enforced after the date?

#### Clause 5

##### (a) Proposed section 40D

A party seeking to enforce a Mainland award in Hong Kong must produce documents as stated in this proposed section. But the documents that need to be submitted seem to differ from those documents prescribed in the "Arrangement Concerning Mutual Enforcement of Arbitral Awards Between the Mainland and the Hong Kong Special Administrative Region ("the Arrangement)". Article 4(3) of the Arrangement states that where the applicant is a foreign legal entity, the corresponding notarisation and authentication material shall be submitted. Should notarised material or just a duly certified copy be submitted?

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(b) Proposed section 40F

Article 10 of the Arrangement states that "the application for enforcement (by a legal entity) may be made within six months after this Arrangement comes into force". I note that the Arrangement was signed on 21 June 1999. Does it mean that an application for enforcement of a Mainland award which had been refused in Hong Kong after 1 July 1997 has to be made before 20 December 1999? What if this Bill is not enacted before 20 December 1999? Can one apply to court for enforcement anytime after 20 December 1999 since there is no time limit in the Bill?

Clause 9

In the proposed section 47, what does "any other class of person" refer to? This "class" is not reflected in the Chinese version of the Bill.

Please also see attached letter from Hon Margaret Ng that contains queries on and proposed amendments to the Bill which she would like you to consider. I should be grateful if your reply in both Chinese and English version can reach us before 5 November 1999 so that your reply can be circulated to Members of the Bills Committee before its first meeting.

Yours sincerely,

(Anita Ho)  
Assistant Legal Adviser

c.c. Hon Margaret Ng  
D of J (Attn: Mr. K F Cheng (Deputy Principal Govt Counsel))  
LA  
Clerk to the Bills Committee